

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

EMILIO RAMOS,)	
Petitioner,)	CIVIL ACTION NO.
)	04-11731-DPW
v.)	
)	
UNITED STATES OF AMERICA)	
Respondent.)	

MEMORANDUM AND ORDER

February 8, 2005

In this federal habeas corpus proceeding, by order dated December 22, 2004, I directed petitioner and his former appointed counsel to file separately on or before January 7, 2005 affidavits or declarations addressing the circumstances of the withdrawal of the petitioner's earlier habeas corpus petition in No. 98-11857-DPW, including whether, and if so when, the petitioner was consulted and authorized that step. The petitioner's former appointed counsel has filed an affidavit; the petitioner has filed nothing.

Any lingering question about consultation and authorization is fully answered by counsel's affidavit. The affidavit recounts discussion with Mr. Ramos regarding an offer by the government to support a motion for early release from probation if the earlier petition were withdrawn. Counsel avers that "Mr. Ramos agreed to accept the government's offer and withdraw the § 2255 motion."

There being no basis for the petitioner's effort to resurrect his knowing and intentional abandonment of the earlier § 2255 motion, I hereby direct the Clerk to DISMISS this matter.

/s/ Douglas P. Woodlock

DOUGLAS P. WOODLOCK
UNITED STATES DISTRICT JUDGE